

PATENT#19
Appl. B6
H11
d/pkCERTIFICATE OF FACSIMILE TRANSMISSION

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Rimma Mitelman February 21, 2002
 Rimma Mitelman Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Attorney Docket No.: C3900(C)

Appellants: Edwards et al.

Serial No.: 09/525,083

Filed: March 14, 2000

For: A Water Soluble Package

Group: 3721

Examiner: C. Harmon

Edgewater, New Jersey 07020

February 21, 2002

**RESPONSE TO NOTIFICATION OF NON-COMPLIANCE
 WITH 37 C.F.R. 1.192C**

Assistant Commissioner for Patents
 Washington, D.C. 20231

Sir:

Applicants enclose herewith Amended Appeal Brief, which refers to the drawings in the Summary of the Invention section. See the last line of the section. Also attached is a copy of the Notice of Appeal which had been timely submitted.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,

Rimma Mitelman
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AMENDED BRIEF FOR APPELLANTS

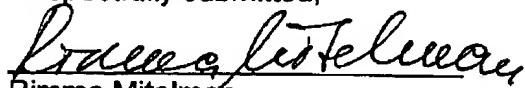
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Enclosed herewith are three (3) copies of an Amended Appeal Brief for Appellants.

Please charge the \$320.00 fee to our Deposit Account No. 12-1155. Any deficiency or overpayment should be charged or credited to this Deposit Account. This authorization is submitted in triplicate.

Respectfully submitted,



Rimma Mitelman
Registration No. 34,396
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Attorney Docket No.: C3900(C)
Appellants: Edwards et al.
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Edgewater, New Jersey 07020
February 21, 2002

AMENDED BRIEF FOR APPELLANTS

Edgewater, New Jersey 07020
February 21, 2002

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Appellants: Edwards et al.
Serial No.: 09/525,083
Filed: March 14, 2000
For: A Water Soluble Package

Group: 3721
Examiner: C. Harmon
Edgewater, New Jersey 07020
December 19, 2001

AMENDED BRIEF FOR APPELLANTS

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I. REAL PARTY IN INTEREST

The real party in interest is Unilever Home and Personal Care USA, Division of CONOPCO, Inc., a corporation of New York having a principal place of business at 33 Benedict Place, Greenwich, Connecticut 06830.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III. STATUS OF CLAIMS

A. **TOTAL NUMBER OF CLAIMS IN APPLICATION**

Ten (10) claims are presently pending.

B. **STATUS OF ALL THE CLAIMS**

Claims rejected – Claims 1-10

C. **CLAIMS ON APPEAL**

Claims 1-10 are on appeal.

IV. STATUS OF AMENDMENTS

No amendments were presented after Final Rejection.

Claims 1 to 14 were originally present. Claims 11-14 were canceled as the result of Restriction Requirement. Claim 1 is the only independent claim.

V. SUMMARY OF THE INVENTION

The application is directed to a water soluble package containing a detergent composition. The packaging and transport of water soluble packages containing fluid substances subjects the formed packages to considerable impact forces. A particular problem is that when a number of such packages are loose packed in a larger container which is then transported, the impact forces suffered by the packages within the container can be severe. The difficulty is that in such a situation it only takes one package in the larger container to break for the whole product to be ruined as far as the consumer is concerned because the fluid contents of the broken package may leak over any unbroken packages. Consumer confidence in a product is likely to be badly damaged by such an occurrence. The problem of minimising breakage to an acceptable level is particularly acute in the area of laundry detergents and other domestic consumer products and has not been solved until now. See page 2, line 24 - page 3, line 4 of the specification.

Appellants have surprisingly discovered that the above mentioned problems and disadvantages of known water soluble packages are substantially addressed by the packages according to the invention. In particular, the invention yields water soluble packages which are sufficiently robust to withstand (to a commercially acceptable level) the rigours of packaging and transport even when the fluid substance inside the package is a domestic consumer product such as a laundry detergent. The combination of thermoforming the packages of the invention and forming the packages into a dome shape confers surprising advantages on the packages of the invention. See page 3, line 26 - page 4, line 3 of the specification. See also figures 1-5, showing the dome-shape of thermoformed packages of the invention.

VI. ISSUES FOR APPEAL

The Issue that remains in the case is defined by the Examiner's rejection and is as follows:

Whether claims 1-10 are obvious under 35 U.S.C. §103(a), over Ciallella et al. (U.S. Patent 4,806,261) in view of Chan (U.S. Patent 5,996,845).

VII. GROUPING OF CLAIMS

All claims stand or fall together.

VIII. APPELLANTS' ARGUMENTS

Whether claims 1-10 are obvious under 35 U.S.C. §103(a), over Ciallella et al. (U.S. Patent 4,806,261) in view of Chan (U.S. Patent 5,996,845).

Appellants respectfully submit that one of ordinary skill in the art would not have been led to combine Ciallella with Chan, since employing the package of Chan in Ciallella's invention would destroy the purposes of both Chan and Ciallella:

- Ciallella needs water soluble package, whereas Chan teaches water insoluble packages;
- Ciallella teaches granular detergent within the package, whereas Chan teaches liquid composition;
- Chan discloses a liquid dispensing package which is not entirely sealed around the perimeter of the package but, rather, contains an opening, for squeezing the liquid contents out of the package; whereas Ciallella's package is sealed.

The problems identified in Chan (objectives of invention, problems with prior art) don't extend to minimising breakages of the article because water insoluble material is generally tougher. The lack of susceptibility of water-insoluble film material means that the structure is not critical and can vary enormously - hence varied shapes in Chan. One of ordinary skill in the art would not have turned to Chan or other water-insoluble prior art to modify the package shape or sealing mechanism of Ciallella, as it would be unlikely to have a solution for weak packaging material.

Even if they are combined so that the sealing mechanism of Chan *is* used with the arrangement of Ciallella, this would still not have resulted in the invention *without further modification*. This is because the seal of the allegedly relevant figures of Chan, is *not continuous* as defined in claim 1. Indeed, Chan only works with a non-continuous seal which must have a gap/break to provide the self-closing flat channel valve - a completely different feature to our package which releases its contents by dissolution

so must be continuous. Also, the shape of the Chan package in figs 1-4 is not the same as appellants' -it has an extending portion where the flat channel valve is. So, in order to get to appellants' invention by combining: one of ordinary skill in the art would have had to start with Ciallella, then add the thermoforming mechanism of Chan and some of the shape (i.e. the bit without the flat channel valve), and then add a second step by making the seal continuous. It is not seen how a combination of the documents would have resulted in appellants' invention.

Appellants' specification contains ample evidence of the criticality of the dome shape, combined with thermoforming process. This combination of thermoforming with dome shape is not taught by the Ciallella/Chan references, either alone or combined. See appellants' examples showing impact resistance and impact survival in the package were greatly improved when the critical selection of a dome shape in combination with thermoforming was made by appellants (pages 11 - 14 of the specification).

In the advisory action, the Examiner argued that Chan discloses continuously sealing the package in Figures 11-15, 25, etc. Appellants respectfully disagree. Chan specifically teaches an opening for his packages. The opening is termed by Chan "flat channel valve." See column 3, lines 9-36. See the description of the operation of the flat channel valve which provides the flow channel. Column 5, line 17 - column 6, line 63.

IX. CONCLUSION

Appellants respectfully request the Board of Patent Appeals and Interferences to reverse the Examiner's final rejection.

Respectfully submitted,

Rimma Mitelman
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Attorney for Appellant(s)

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APPENDIX OF CLAIMS (37 C.F.R. 1.192(c)(9))

The text of the claims involved in the appeal is:

1. A water soluble package containing a fluid substance for release on dissolution of the package, characterised in that the package has a body portion for containing the substance comprising a first sheet of a water soluble material thermoformed to form a body wall of the body portion, and a second sheet of water soluble material superposed on the first sheet and sealed thereto along a continuous region of the superposed sheets to form a base wall of the body portion, and in that the body portion of the package is generally dome shaped.
2. A package according to claim 1, characterised in that the maximum height of the body wall above the base wall is less than or equal to the maximum width of the base wall.
3. A package according to claim 1, characterised in that the base wall is generally circular.
4. A capsule according to claim 1, characterised in that the base wall is generally oval.
5. A package according to claim 1, characterised in that the base wall is generally flat, or slightly concave or convex.
6. A package according to claim 1, characterised in that the first sheet of water-soluble film comprises polyvinyl alcohol or a polyvinyl alcohol derivative.
7. A package according to claim 1, characterised in that the second sheet of water soluble material comprises polyvinyl alcohol or a polyvinyl alcohol derivative.

8. A package according to claim 1, characterised in that the fluid substance is a liquid, paste or a gel.
9. A package according to claim 1, characterised in that the fluid substance is a domestic consumer product.
10. A package according to claim 9, characterised in that the substance is a laundry detergent composition.